IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWELFTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE Dr. JUSTICE G.YETHIRAJULU

WRIT PETITION NO: 14375 of 2004

Between:

1. A.P. Power Diploma Engineers Association, Srisailam Zone, A.P. Genco, Srisailam, Kurnool District rep. by its Zonal Secretary, C. Parvathaiah.

2. M. Lokeshwar Rao S/o. M. Chennaiah, Working as Sub-Engineer at O&M-I, General Sub-Division, Srisailam Right Flank, Power House, Srisailam, Kurnool District.

... PETITIONERS

AND

1. Generation Corporation of A.P. Limited, Vidyut Soudha, Somajiguda, Hyderaad rep. by its Chairman & Managing Director.

2. The Chief Engineer (Electrical), Operation & Maintenance, A.P. Genco, Srisailam Project, Mahaboobnagar.

3. The Superintending Engineer, Operation & Maintenance, Circle, A.P. Genco, Srisailam Project, Srisailam, Pin-518102, Kurnool District.

4. The Executive Engineer/Civil Power House Divn., A.P. Genco, Srisailam Project, Srisaialam, Kurnool District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue a Writ or order or direction, especially one in the nature of writ of Mandamus- i) declaring the inaction of the respondents in not allotting the newly constructed 2 Blocks of "F" Type Quarters at Srisailam East of Srisailam Project to the cadre of

Sub-Engineers, as illegal and arbitrary; ii) Consequently direct the respondents to allot the newly constructed"F" Type Quarters at Srisailam East of Srisailam Project to the Sub-Engineers; and to pass such other order or orders as this Court deems fit and proper in the circumstances of the case.

Counsel for the Petitioner: Mr.K.Vasudeva Reddy

Counsel for the Respondent Nos.1 to 4: Smt.K.Sesharajyam

The Court at the admission stage made the following:

ORDER:

1. The first petitioner is the A.P.Power Diploma Engineers Association and the second petitioner is one of the sub-engineers working under the first respondent—Corporation. There are 32 sub-engineer posts at Srisailam Project of the Corporation and at present there are 16 Sub-Engineers working under the said project. The petitioners contend that the members of the Diploma Engineers Association are entitled for F-type residential quarters, therefore, they requested the respondents to construct residential quarters exclusively for sub-engineers at Srisailam Power House. The fourth respondent submitted proposals for sanction of required funds. Accordingly, the funds were released for construction of two blocks of F-type quarters containing 12 units in each block. The petitioners further contend that when the two blocks of F-type quarters are ready for occupation, the members of other trade unions entered into the scene and brought pressure on the respondents to allot the newly constructed F-type quarters to the employees other than sub-engineers. The first petitioner submitted a representation to the third respondent on 5-7-2004 requesting to allot the newly constructed F-type quarters to sub-engineers without yielding to the pressure tactics of other unions. The third respondent in turn sought for clarification from the first respondent through the letter dated 31-7-2004. The third respondent prepared the minutes of the meeting with the trade unions and decided to allot newly constructed F-type quarters to all the members according to their seniority and they cannot be exclusively earmarked for sub-engineers. When the petitioners approached the respondents 2 and 3, they expressed their inability to allot the F-type quarters exclusively for sub-

engineers. The petitioners having no other alternative remedy approached this Court through this writ petition seeking to declare that the action of the respondents in not allotting newly constructed two blocks of F-type quarters to the members of the first petitioner association as illegal and arbitrary and consequently to direct the respondents to allot the newly constructed F-type quarters to the project sub-engineers.

2. The respondents filed the counter-affidavit resisting the petition and contended as follows:

3. There is an existing practice of allotting quarters on station seniority and it is being adopted for every allotment. There is no specific mention about the allotment of newly constructed F-type quarters exclusively to sub-engineers. The contention of the petitioners that the two blocks were exclusively constructed for sub-engineers is not correct. In G.O.O.No.20/GM(HR)/2002 dated 17-4-2002 rules have been framed prescribing the procedure by superceding all the earlier orders for allotment of residential accommodation to the employees working in power generating stations of A.P. Genco. Rule 4.1 and 5.1 of the said rules read as follows:

4.0 Procedure:

4.1 The administrative department in charge of Departmental quarters will maintain lists of eligible employees in order of seniority either for fresh allotment or higher type Quarter when the employee is entitled to it when he is promoted to higher post.

5.0 General:

5.1 If an employee fails to take possession of the quarter allotted to him within 10 days from the receipt of the letter of allotment, he shall not be eligible for another allotment for a period of one year from the date of allotment order. If the Quarter is vacant and allotment is made and the employee does not occupy the quarter within the stipulated period, no HRA is admissible. Further, he shall become junior in the station seniority list for allotment of eligible quarter in future.

4. The respondents further contended that in view of the request made by the employees unions, especially the first petitioner association, it was proposed to take up construction of two blocks of F-type quarters.

Accordingly, administrative sanction was obtained on 14-5-2003 for construction of those blocks. The approval was not given for construction of the quarters exclusively for the sub-engineers. Basing on the unit seniority quarters are to be allotted to the eligible willing employees as per their option and as per the rules in vogue. As per the minutes of the meeting held on 2-8-2004 in the Chambers of the third respondent with the union representatives, it was decided as under:

> It is decided to allot the newly constructed F-type quarters as per the prevailing procedure of allotment basing on the common station seniority, as per the existing seniority list.

In another meeting held on 3-8-2004 in the chambers of the third respondent with the members of the first petitioner association, the following resolution was passed:

> It is decided to allot newly constructed F-type quarters after 15 days after completing the administrative procedure.

The eligible cadres for allotment of F-type quarters are from the cadre of JPA to sub-engineers. The ratio basing on the cadre strength is not being followed in allotting the quarters. The project seniority of the employees will be taken while allotting the quarters by the authority. The writ petition is therefore liable to be dismissed with costs.

5. The first petitioner association filed reply affidavit contending that on the ground that two blocks of F-type quarters are being constructed exclusively for sub-engineers, their names were not included in the proceedings dated 29-9-2003 directing the employees therein to give their willingness for occupation of BF type quarters. The respondents have not followed the common seniority in asking for willingness and as the respondents 2 and 3 were giving an impression all through that the two blocks are meant for sub-engineers, they were not included in the proceedings dated 29-9-2003. Since the administrative sanction was obtained for construction of two blocks of F-type quarters exclusively for

sub-engineers, ignoring the members of the first petitioner association and including their juniors for allotment, against the purpose for which the two blocks of F-type quarters were constructed, amounts to denial of the allotment of those quarters to the members of the petitioner association.

6. In the light of the contentions of the parties, the point for consideration is:

> Whether the members of the first petitioner association are exclusively entitled for allotment of the two blocks of newly constructed F-type quarters?

Point:

7. Rule 4 of the Rules framed in G.O.O.No.20 dated 17-4-2002 prescribes that seniority alone should be the criteria for allotment of residential quarters. Rule 5 prescribes that if any employee fails to take possession of the quarter allotted within 10 days, he shall not be eligible for allotment within a year from the date of such allotment order. In view of the existing rules in force, the respondents have to allot the quarters to the eligible employees in the order of seniority either for fresh allotment or higher type quarter, when the employee is entitled to it on being promoted to the higher post.

8. The petitioners are not disputing the regular procedure for allotment of the residential accommodation. The third respondent also prepared the seniority list of employees working in O & M Circle for allotment of F-type quarters. The petitioners contend that since the administrative sanction was obtained for construction of the blocks by mentioning that they are exclusively meant for sub-engineers and as the members of the first petitioner association are not included in the list of employees whose options were called for for allotment of F-type quarters, the respondents were always contemplating to allot F-type quarters to the members of the petitioners association, but due to the pressure brought by the other trade unions, they acceded to the pressure and changed the

version by mentioning that the allotment would be made according to the seniority of the employees of the said unit.

9. The petitioners further contend that on 3-7-2001 the fourth respondent addressed the third respondent for construction of quarters for sub-engineers along with an estimate mentioning that the existing sub-engineers are staying at lower type quarters and they are deprived of station seniority because of State-wide transferable posts. The third respondent in turn forwarded the estimates to the second respondent mentioning as follows:

> At present sub-engineers are residing in lower type quarters and they are deprived of station seniority because of State-wide transferable posts. The condition of I & P quarters where they are staying are very bad and they require major repairs. Investing major amounts on the quarters of I & P is uneconomical in the present stage also. Day-by-day more number of I & P quarters are reaching the abandoned condition and the Engineers/O & M staff are refusing to stay in such quarters.

10. The third respondent addressed a letter to the first respondent vide Lr.No.SE/O&M/SLMP/Adm./C1/F.DKR/D.No.340 on 9-3-2002 giving particulars to the General Manager (HR), A.P. Genco, on certain demands made by the petitioner association in the joint meeting held on 28-11-2001. Under para 3 of the said letter, the third respondent mentioned as follows:

> iii) <u>CONSTRUCTION OF DEPARTMENTAL QUARTERS</u>:
>
> Proposals were submitted by the Chief Engineer, Elecl., O & M, Srisailam Project to Head Quarters vide Lr.No.CEE/O&M/SLMP/DNO.608/2001 dated 27-9-2001 for construction of 2 Blocks of 'F' Type quarters, each block consisting of 12 portions exclusively for sub- engineers. Necessary administrative approval for the above is awaited.
>
> It is also submitted that unless the quarters are constructed, the problem of providing of residential accommodation cannot be solved in the Right Flank Colony. Hence, it is requested to communicate necessary administrative approval for construction of 2 blocks of 'F' type quarters at an early date please.

11. In the letters addressed by the third respondent to the first

respondent there is a mention that the proposals submitted for construction of two blocks of F-type quarters exclusively for sub-engineers are required to be sanctioned to solve the accommodation problem.

12. The respondents are contending that though there was a mention in the letters addressed to the first respondent that the F-type quarters are meant for sub-engineers, they have to follow the procedure regarding the allotment of residential accommodation to employees as per G.O.O.No.20/GM (HR)/2002 dated 17-4-2002 and accordingly the cases of the sub-engineers will be considered while making allotment of the newly constructed F-type quarters in terms of the procedure mentioned in the order of GENCO.

13. The respondents did not address letters to any of the sub-engineers or their association that they would be allotted F-type quarters against the allotment rules. Though it is mentioned in the letter dated 9-3-2002 (referred supra) that the 'F' type quarters are proposed to be constructed for sub-engineers, unless there is exemption from following the allotment rules, the respondents cannot deviate the same. Therefore, the respondents are right in contending that the allotment would be made according to the procedure prescribed for allotment of the residential quarters.

14. The grievance of the petitioner association is that though 16 sub-engineers are provided quarters, they are of inferior accommodation and they are entitled to get better accommodation like F-type quarters. The respondents are contending that there are some equal or higher cadres of officers who are complaining that some of the quarters occupied by them are in dilapidated condition; therefore, they have to be provided alternative accommodation. Though the respondents are entitled to consider such requests, they cannot totally deny the allotment of new quarters to the members of the petitioner association. In the light of the above circumstances, the following directions are given to the respondents:

1. The respondents shall make allotment of the quarters as per the procedure prescribed in G.O.O.No.20 dated 17-4-2002.

2. While accommodating the officers of the cadre equal to the sub-engineers or above whose quarters are in dilapidated condition, the respondents shall also take into consideration the grievance of the sub-engineers that they are kept in inferior quarters meant for the officers who are lower in rank to the sub-engineers.

3. If there are no other officers who are seniors to the members of the petitioner association in the project station and staying in inferior quarters, the cases of the sub-engineers shall be considered to the extent possible to accommodate them in F-type quarters.

4. The respondents shall, only after personal verification of the quarters and after certifying that a particular quarter, which is in the occupation of the officers, who are equal to the cadre of sub-engineers and above, is in a dilapidated condition, take necessary steps for allotment of F-type quarters.

5. In respect of the remaining F-type quarters, the respondents shall give preference to the sub-engineers for shifting them from inferior quarters, if there are no officers who are equal and above the cadre of sub-engineers and who are seniors to the sub-engineers in the project station and residing in inferior quarters.

6. The respondents shall then allot the remaining F-type quarters to the sub-engineers and the officers of the cadre equal to the sub-engineers and above according to the project station seniority, according to the procedure prescribed in G.O.O.No.20 dated 17-4-2002.

15. With the above directions, the writ petition is disposed of.

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(Dr.G.Yethirajulu, J)

12th October 2004

svs

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Zonal Secretary, A.P. Power Diploma Engineers Association, Srisailam Zone, A.P. Genco, Srisailam, Kurnool District.
2. The Chairman & Managing Director, Generation Corporation of A.P. Limited, Vidyut Soudha, Somajiguda, Hyderaad.
3. The Chief Engineer (Electrical), Operation & Maintenance, A.P. Genco, Srisailam Project, Mahaboobnagar.
4. The Superintending Engineer, Operation & Maintenance, Circle, A.P. Genco, Srisailam Project, Srisailam, Pin-518102, Kurnool District.
5. The Executive Engineer/Civil Power House Divn., A.P. Genco, Srisailam Project, Srisaialam, Kurnool District.
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